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FRIDAY, MARCH 7, 2008

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## **MIAMI JURY CONVICTS PHYSICIAN AND THREE BUSINESS OWNERS OF MEDICARE FRAUD**

### ***Seventh Trial Conviction for Medicare Strike Force***

WASHINGTON – A federal jury in Miami convicted a physician and the owners and operators of two durable medical equipment companies and a home health care agency of Medicare fraud, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney R. Alexander Acosta of the Southern District of Florida announced today.

After a five week trial in Miami, the jury found Maria T. Hernandez (Mayte), 50, Marta F. Jimenez, 67, Maivi Rodriguez, 34, and Ana Caos, M.D., 62, guilty on all charged counts, including; conspiracy to defraud the U.S. government, to cause the submission of false claims to Medicare, and to solicit and receive kickbacks; and conspiracy to commit health care fraud. Additionally, defendants Hernandez, Jimenez and Rodriguez were found guilty on six counts of receiving kickbacks in exchange for referring Medicare patients.

Sentencing has been scheduled for May 16, 2008. Hernandez faces a maximum of 35 years in prison, Rodriguez and Jimenez each face a maximum of 25 years in prison, and Caos faces a maximum of 15 years in prison.

At trial, the jury heard testimony from patients, controlled by Hernandez, Jimenez and Rodriguez through their companies, that they were falsely diagnosed with chronic obstructive pulmonary disease and prescribed unnecessary aerosol medications, including compounded medications delivered by Miami-area pharmacies. Compounding refers to the process of a pharmacist mixing the medication in the pharmacy, instead of purchasing it from a pharmaceutical manufacturer. Testimony revealed that one of the men making the medicine at the pharmacies, was unlicensed and had been trained as an auto mechanic.

As part of this scheme, Hernandez, Jimenez and Rodriguez controlled more than sixty Medicare patients. Between February 2001 and June 2003, Medicare was billed \$487,783 by complicit pharmacies for unnecessary aerosol prescriptions for these patients. In exchange for bringing the prescriptions to the pharmacies, the defendants received approximately \$150,000 dollars from the pharmacy owners, who have also been sentenced to federal prison. Between December 1997 and January 2007, the defendants directly billed Medicare more than \$1.6 million dollars for medical equipment for these same patients.

Hernandez owned and operated Action Best Medical Supplies Inc., and Jimenez and Rodriguez owned and operated Esmar Medical Equipment Inc., both Miami durable medical equipment companies (DMEs). Rodriguez also owned and operated A & A Medical Services Inc., a home health care agency, and M & M Comprehensive Inc., an assisted living facility. Caos practiced at Larkin Community Hospital and operated a private practice.

The patients testified that they were paid cash kickbacks to accept delivery of the unnecessary medication and medical equipment that was billed to Medicare. One Medicare beneficiary testified that he donated all the medication to a charity while another testified that she threw it in the trash. Former physician, Pedro Cuni, who is serving time in prison for Medicare fraud, testified that he was paid \$50 a piece to write prescriptions for the patients controlled by these defendants.

Trial evidence established that Caos wrote prescriptions for unnecessary compounded aerosol medication and its related medical equipment. The jury also heard testimony from Orlando Pascual, another company owner who is serving time for Medicare fraud, that he purchased prescriptions from Caos at \$100 per prescription. These aerosol prescriptions were taken to the fraudulent pharmacies, which were shut down in June 2003 following raids by the FBI and U.S. Department of Health and Human Services' Office of the Inspector General (HHS-OIG).

In 2006, the Medicare program paid for more than \$155 million worth of aerosol medications in Miami-Dade County alone. These drugs were the single most common item billed to Medicare Part B and accounted for more than 32 percent of all equipment claims filed in Miami-Dade County. From 2005 to 2006, claims for aerosol medications rose more than 100 percent in Miami-Dade County. According to Medicare data, Miami-Dade County alone accounted for more paid DME claims than every state in the country except California, Texas, New York, Michigan and Ohio. In June 2007, the Centers for Medicare and Medicaid Services ceased paying for compounded aerosol medication because it determined that they were medically unnecessary.

The case was brought as part of the Medicare Fraud Strike Force that has been operating since March of 2007. It was prosecuted by Deputy Chief Kirk Ogrosky and Trial Attorney John S. (Jay) Darden of the Fraud Section of the Criminal Division, with the investigative assistance of the FBI and HHS-OIG.

The Medicare Strike Force is led by Deputy Chief Ogrosky of the Fraud Section of the Criminal Division in D.C., and the office of U.S. Attorney R. Alexander Acosta of the Southern District of Florida. The Strike Force operates out of the federal Health Care Fraud Facility in Miramar, Fla. Since March 1, 2007, the Strike Force has brought charges against 120 defendants, resulting in 101 convictions.

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